

ASSEMBLY BILL

No. 1128

Introduced by Assembly Member Brownley

February 27, 2009

An act to amend Sections 8589.11, 8589.12, 8589.13, 8589.14, 8589.15, 8589.16, 8589.17, 8589.18, 8589.19, 8589.20, 8589.21, and 8589.22 of, and to add Article 5.6 (commencing with Section 8589.25) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1128, as introduced, Brownley. Emergency services: fire engines.

Existing law, the State Assistance for Fire Equipment Act, authorizes the California Emergency Management Agency to acquire new or used firefighting apparatus and equipment and to resell it to local agencies providing fire suppression services.

This bill would require the Secretary of California Emergency Management to acquire 131 fire engines to augment its existing fleet and to assign the fire engines to governmental fire protection agencies in this state pursuant to a written agreement containing specified terms. This bill would allow a local agency, as defined, to donate its used fire engines in exchange for receiving a priority in assignment of the new fire engines acquired by the secretary, and require the secretary to make those donated fire engines available to a fire suppression agency that serves a rural area or community. This bill would make an appropriation by transferring specified funds from the Federal Trust Fund to the secretary for the purposes of these provisions, to the extent authorized under federal law.

The bill would express the Legislature's intent to create and fund an expenditure plan for the California Department of Forestry and Fire Protection to replace, augment, and upgrade its fire engine fleet and its emergency equipment.

This bill would also make technical, conforming changes to reflect the new name of the California Emergency Management Agency that is under the supervision of the Secretary of California Emergency Management.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Over 50 years ago, the federal government established a
4 program to match state and local funds for the purchase of fire and
5 rescue apparatus and equipment. In doing so, the federal
6 government recognized that no single fire department could afford
7 to purchase and maintain sufficient fire and rescue apparatus to
8 combat a major disaster or war-caused conflagration.

9 (b) In 1953 and 1954, the state, through the Governor's Office
10 of Emergency Services, now known as the California Emergency
11 Management Agency (Cal EMA), implemented the
12 recommendations of the Governor's Fire Advisory Committee
13 and, using federal matching funds, purchased 100 fire engines,
14 and assigned them, by written agreement, to local governments
15 throughout the state.

16 (c) For five decades, local government assignees have been
17 permitted to use the Cal EMA fire engine fleet for mutual aid
18 response, local multiple alarm fires, temporary replacement for
19 out-of-service fire apparatus, firefighter training activities, and
20 other local governmental needs. Each assignee is required to
21 dispatch the Cal EMA fire engines with the requisite personnel to
22 any emergency in accordance with provisions of the Master Mutual
23 Aid Agreement.

24 (d) In the aftermath of the 2003 southern California firestorm,
25 a bipartisan 34-member Blue Ribbon Fire Commission was
26 established to examine the devastating effects of the fires in an

1 effort to prevent similar devastation of life and property in the
2 future.

3 (e) The final report of the Blue Ribbon Fire Commission
4 revealed that while state and local fire agencies reported having
5 available personnel capable of responding to fires, most lacked
6 the additional equipment required for such a response. To this end,
7 the commission recommended that the state develop, among other
8 things, a program to fund the acquisition of 150 additional Cal
9 EMA fire engines. The commission also recommended that the
10 state begin replacing and diversifying the aging fire engine fleet
11 maintained by the Department of Forestry and Fire Protection.

12 (f) In 2007, amidst yet another 100-year firestorm in southern
13 California, only 19 of the 150 Cal EMA fire engines recommended
14 for purchase by the commission had actually been purchased.
15 While our state's firefighting force stood ready and able to attack
16 the fires, state and local governments lacked the equipment required
17 to dispatch personnel who might have otherwise reduced the
18 devastating impact of the fires by deploying a more rapid and
19 powerful response.

20 (g) Given the destruction caused by the 2003 and 2007 southern
21 California fires, it is clear, now more than ever, that assistance is
22 needed to enable Cal EMA to purchase additional fire engines for
23 state and local emergency response use.

24 (h) It is in the public's interest for the state to implement the
25 recommendation made by the commission and, in doing so, rapidly
26 build upon its existing fire engine fleet for use in mitigating the
27 effects of all forms of disasters, including terrorist acts, and major
28 fires, floods, and earthquakes.

29 SEC. 2. Section 8589.11 of the Government Code is amended
30 to read:

31 8589.11. ~~The office~~ *agency* may acquire new or used
32 firefighting apparatus and equipment for resale to local agencies.
33 If the apparatus or equipment is in a used condition, ~~the office~~
34 *agency* may contract with the Prison Industry Authority to repair
35 or refurbish the apparatus or equipment to acceptable fire service
36 standards before resale. The resale price shall recover ~~the office's~~
37 *agency's* cost of acquisition, repairing, refurbishing, and associated
38 indirect expenses.

39 SEC. 3. Section 8589.12 of the Government Code is amended
40 to read:

1 8589.12. If a state agency, including the ~~office~~ *agency*, proposes
2 to make firefighting apparatus or equipment ~~which~~ *that* is currently
3 owned and operated by the state available to the ~~office~~ *agency* for
4 use under this article, the Department of General Services shall
5 determine whether there is any immediate need by any state agency
6 for the apparatus or equipment. If there is no immediate need, the
7 Department of General Services shall release the apparatus or
8 equipment to the ~~office~~ *agency*. If the ~~office~~ *agency* acquires
9 firefighting apparatus or equipment from another state agency, the
10 ~~office~~ *agency* shall pay the fair market value of the apparatus or
11 equipment, as determined by the Department of General Services,
12 unless the *other state* agency agrees to a lesser payment.

13 SEC. 4. Section 8589.13 of the Government Code is amended
14 to read:

15 8589.13. (a) The ~~office~~ *agency* shall give first priority for the
16 sale of new or used firefighting apparatus and equipment to a local
17 agency that serves a rural area, and is authorized to contract with
18 a local agency that serves a rural area for this purpose. The ~~office~~
19 ~~agency~~ shall give second priority for the sale of new or used
20 firefighting apparatus and equipment to any local agency. If after
21 reasonable efforts by the ~~office~~ *agency* to sell new or used
22 firefighting apparatus and equipment to any local agency, and not
23 less than 90 days after providing notice to these local agencies,
24 the ~~office~~ *agency* may sell any remaining firefighting apparatus
25 and equipment to public agencies outside of California, the federal
26 government, and Indian tribes, subject to any applicable federal
27 requirements.

28 (b) If a contract for the sale of new or used firefighting apparatus
29 and equipment under subdivision (a) provides for the local agency
30 to pay the sale price in more than one installment, the local agency
31 shall pay interest at a rate specified in the contract, which shall not
32 exceed 1 percent less than the rate earned by the Pooled Money
33 Investment Board, and the term of a contract shall not exceed five
34 years.

35 (c) If a contract for the sale of new or used firefighting apparatus
36 and equipment under subdivision (a) provides for a local agency
37 to obtain a loan from another source, the ~~office~~ *agency* may insure
38 the other loan.

39 SEC. 5. Section 8589.14 of the Government Code is amended
40 to read:

1 8589.14. The ~~office~~ *agency* shall operate an information system
2 ~~which that~~ is capable of identifying firefighting apparatus and
3 equipment—~~which that~~ is available for acquisition, and local
4 agencies—~~which that~~ are interested in acquiring apparatus and
5 equipment.

6 SEC. 6. Section 8589.15 of the Government Code is amended
7 to read:

8 8589.15. The ~~office~~ *agency* may contract with the Prison
9 Industry Authority to perform any of the responsibilities or services
10 required or authorized by this article.

11 SEC. 7. Section 8589.16 of the Government Code is amended
12 to read:

13 8589.16. There is hereby created in the General Fund the State
14 Assistance for Fire Equipment Account, which, notwithstanding
15 Section 13340, is continuously appropriated to the ~~office~~ *agency*
16 for the purposes of Sections 8589.11 and 8589.13. All proceeds
17 from the resale of firefighting apparatus and equipment shall be
18 paid to the account. The ~~office~~ *agency* shall manage the account
19 so that it is self-sustaining by the 1992–93 fiscal year.

20 SEC. 8. Section 8589.17 of the Government Code is amended
21 to read:

22 8589.17. Every contract with a local agency for the resale of
23 firefighting apparatus and equipment shall specify that the local
24 agency shall make the apparatus or equipment available to other
25 local agencies in the same county as part of a mutual aid agreement.
26 The apparatus or equipment shall be available for mutual aid
27 responses for the length of the term of the contract with the ~~office~~
28 *agency*.

29 SEC. 9. Section 8589.18 of the Government Code is amended
30 to read:

31 8589.18. If a local agency defaults on a contract for the resale
32 of firefighting apparatus and equipment, the ~~office~~ *agency* may
33 either renegotiate the contract or take possession of the apparatus
34 or equipment for subsequent resale to another local agency.

35 SEC. 10. Section 8589.19 of the Government Code is amended
36 to read:

37 8589.19. (a) After consultation with the Office of Emergency
38 Services Fire Advisory Committee, the ~~director~~ *secretary* shall
39 adopt rules and regulations governing the operation of the programs
40 created by this article pursuant to the Administrative Procedure

1 Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3.

3 (b) The rules and regulations adopted pursuant to subdivision
4 (a) shall include, but not be limited to, all of the following:

5 (1) The specific types of firefighting apparatus and equipment
6 ~~which~~ *that* may be acquired, rehabilitated, and resold.

7 (2) The amount and terms of resale contracts.

8 (3) The time, format, and manner in which local agencies may
9 apply for resale contracts.

10 (4) Priorities for assisting local agencies ~~which~~ *that* shall give
11 preference to local agencies which meet all of the following:

12 (A) Demonstrated need for primary response firefighting
13 apparatus and equipment.

14 (B) Will be adequately able to operate and maintain the
15 firefighting apparatus and equipment.

16 (C) Have already used other means of financing the firefighting
17 apparatus and equipment.

18 SEC. 11. Section 8589.20 of the Government Code is amended
19 to read:

20 8589.20. All state agencies, boards, and commissions shall
21 cooperate with the ~~office~~ *agency* in implementing the programs
22 created by this article.

23 SEC. 12. Section 8589.21 of the Government Code is amended
24 to read:

25 8589.21. The ~~director~~ *secretary* shall be responsible for the
26 programs created by this article which, except as provided by
27 Sections 8589.12 and 8589.15, shall not be subject to the
28 requirements of the State Equipment Council or the Office of Fleet
29 Administration of the Department of General Services.

30 SEC. 13. Section 8589.22 of the Government Code is amended
31 to read:

32 8589.22. The ~~director~~ *secretary* shall report to the Legislature
33 every two years, commencing January 1, 1990, regarding the status
34 of the programs created by this article.

35 SEC. 14. Article 5.6 (commencing with Section 8589.25) is
36 added to Chapter 7 of Division 1 of Title 2 of the Government
37 Code, to read:

Article 5.6. The Fire Response and Rescue Act of 2009

8589.25. (a) This article shall be known and may be cited as the Fire Response and Rescue Act of 2009.

(b) The definitions in Section 8589.10 apply to this article.

(c) For purposes of this article, “fire protection agency” shall mean a governmental fire protection agency of this state.

8589.26. (a) The secretary shall acquire 131 additional fire engines to augment the agency’s existing fleet of fire engines to be used in mitigating the effects of terrorist acts, fires, floods, earthquakes, or other disasters.

(b) The secretary shall assign the fire engines acquired pursuant to this article to any fire protection agency. The secretary’s determination of assignment shall be based upon whether the fire protection agency is capable of providing the appropriate facilities, maintenance, and personnel for a fire engine assigned to it.

(c) The assignment of fire engines shall be made pursuant to a written agreement between the secretary and the fire protection agency. The agreement shall require the fire protection agency to assume responsibility for the operation, maintenance, and staffing of the fire engines assigned to it and to agree to other terms determined by the secretary, including, but not limited to, the right of the secretary to dispatch a fire engine together with the required personnel from the fire protection agency to which the fire engine is assigned.

(d) The secretary shall assign or reassign fire engines in a manner that promotes rapid mobilization, organization, and operation of the fire engines within strategically located geographic regions of the state, to the extent reasonably possible.

(e) A local agency may donate its used fire engines for the purposes of Section 8589.11 in exchange for assignment priority for a new fire engine acquired by the agency under subdivision (a).

(f) The secretary shall make used, repaired, or refurbished fire engines, donated pursuant to subdivision (e), available to a local agency serving a rural area or community in accordance with Section 8589.13.

SEC. 15. To the extent authorized under federal law, the sum of thirty-two million seven hundred fifty thousand dollars (\$32,750,000) shall be transferred from the Federal Trust Fund,

1 established by Section 16360, to the Secretary of California
2 Emergency Management for expenditure in compliance with
3 subdivision (a) of Section 8589.26, pursuant to the following
4 schedule:

5 (a) Seven million dollars (\$7,000,000) in the 2009–10 fiscal
6 year.

7 (b) Ten million dollars (\$10,000,000) in the 2010–11 fiscal year.

8 (c) Fifteen million seven hundred and fifty thousand dollars
9 (\$15,750,000) in the 2011–12 fiscal year.

10 SEC. 16. It is the intent of the Legislature to create and fund
11 a multiyear expenditure plan and to direct the Department of
12 Forestry and Fire Protection to continue with a cycle to replace,
13 augment, and upgrade the aging fire engine fleet and the emergency
14 equipment that it maintains. Nothing in this act is intended to
15 interfere with, or to supplant, the replacement plan of the
16 Department of Forestry and Fire Protection for its fire engine fleet
17 and for its emergency equipment.